

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**In the Matter of:**

Gayle Latrice Holmes

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Case No. 2:14-bk-58295

Judge John E. Hoffman, Jr

Chapter 13

**MOTION TO AVOID JUDICIAL LIEN OF  
OHIO DEPARTMENT OF TAXATION**

1. Debtor, Gayle Latrice Holmes commenced this case on **November 26, 2014** by filing a voluntary petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.
2. This court has jurisdiction over this motion to avoid and cancel a judicial lien held by the Ohio Department of Taxation on real property used as the Debtor's residence. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(K) and 28 U.S.C. § 1334. Venue is proper under 28 U.S.C. § 1409(a). This proceeding is brought pursuant to 11 U.S.C. §§ 506, 522(f), 1322 and 1325, B.R. 4003(d), and LBR 4003-2.
3. Plaintiff states that she has standing to bring this action on behalf of the Chapter 13 Trustee pursuant to the terms of her proposed Chapter 13 Plan, as amended (Doc. 2 and 16).
4. On **November 13, 2014** creditor recorded a judicial lien against the Debtor's residence at 1082 Ellsworth Avenue, Columbus, Franklin County, OH 43206.

The said judicial lien is entered of record as follows:

**Certificate of Judgment Number 14 JG 11 57962, captioned State of Ohio, Department of Taxation v. Gayle L. Holmes, filed with the Franklin County Clerk of Courts on November 13, 2014 in the approximate amount of \$460.55.**

5. The Debtor's interest in the property referred to in the preceding paragraph and encumbered by the lien has been claimed as fully exempt in his bankruptcy case.
6. The value of the property referred to in Paragraph 3 is estimated to be \$65,000.00, as shown by the appraisal filed in this case (Doc. 12). Said property is further encumbered by a first mortgage in favor of Mortgage Service Center in the approximate amount of \$71,944.00 pursuant to Debtor's Schedule D and Instrument No. 200501270016223 with the Franklin County Recorder of Deeds, recorded on 01/27/2005; a second mortgage in favor of the Columbus City Department of

Development in the approximate amount of \$3,000.00 pursuant to the filed Proof of Claim of the City of Columbus, c/o AmeriNational Community Services, Inc. (Claim 4); and a judgment lien of Franklin University in the approximate amount of \$2,609.83 (12 JG 036071, filed on 09/25/2012). The judgment lien of Franklin University is subject to a separate motion to avoid lien being filed contemporaneously herewith. After deduction for the first mortgage, second mortgage, judgment liens of higher priority, and Debtor's homestead exemption, there is insufficient equity to satisfy the judgment lien of the Ohio Department of Taxation.

7. The existence of the lien of the Ohio Department of Taxation on Debtor's real property impairs exemptions to which the Debtor would be entitled under 11 U.S.C. § 522(b).

WHEREFORE, Debtor prays for an order against the Ohio Department of Taxation avoiding and canceling the judicial lien in the above-mentioned property, and for such additional or alternative relief as may be just and proper.

Respectfully submitted,

MINA NAMI KHORRAMI, LLC

by: /s/Mina N. Khorrami  
Mina N. Khorrami (0058350)  
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**NOTICE OF MOTION TO AVOID JUDICIAL LIEN OF OHIO DEPARTMENT OF TAXATION**

Debtor Gayle Latrice Holmes (hereinafter Debtor) has filed papers with the court to obtain Motion to Avoid Judicial Lien of OHIO DEPARTMENT OF TAXATION.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the Motion to Avoid Judicial Lien of Ohio Department of Taxation, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the Motion to Avoid Judicial Lien of OHIO DEPARTMENT OF TAXATION**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

United States Bankruptcy Court

Attn: Clerk  
170 North High Street  
Columbus, OH 43215

OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to

United States Trustee's Office  
170 North High Street  
Columbus, OH 43215

and

Faye D. English, Trustee  
Chapter 13 Standing Trustee  
One Columbus  
10 W Broad Street, Suite 900  
Columbus, OH 43215-3449

and

Mina Nami Khorrami, LLC  
115 West Main Street, Suite LL-50  
Columbus, OH 43215

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion to Avoid Judicial Lien of Ohio Department of Taxation and may enter an order granting that relief without further hearing or notice.

Dated: 1/6/15

/s/ Mina N. Khorrami

Mina N. Khorrami  
Attorney for Debtor

**CERTIFICATE OF SERVICE**

I hereby certify that on 1/6/15, a copy of the foregoing Motion to Avoid Judicial Lien of Ohio Department of Taxation was served on the following registered ECF participants, **electronically** through the court's ECF System at the email address registered with the court:.

U.S. Trustee

Faye D. English, Trustee

and on the following by **ordinary U.S. Mail** addressed to:

Faye D. English, Trustee  
Chapter 13 Standing Trustee  
One Columbus  
10 W Broad Street, Suite 900  
Columbus, OH 43215-3449

US Trustee  
170 North High Street, Suite 200  
Columbus, OH 43215

Gayle Latrice Holmes  
103 S Terrace Avenue  
Columbus, OH 43204

Franklin University  
Attn: General Counsel/Service of Process  
201 South Grant Avenue  
Columbus, OH 43215-5399

Trammell, Randy D.  
Thomas & Thomas, Attorneys  
2323 Park Avenue  
Cincinnati, OH 45206

Franklin County Treasurer  
373 South High Street  
17th Floor  
Columbus, OH 43215

Franklin County Prosecuting Attorney  
373 South High Street, 13th Floor  
Columbus, OH 43215

Columbus City Department of Development  
Attn: City Attorney/Service of Process  
50 West Gay Street  
Columbus, OH 43215

City of Columbus, C/O: AmeriNational Community Services. Inc.  
Attn: General Counsel/Service of Process  
8121 E. Florence Ave.  
Downey, CA 90240

City of Columbus, C/O: AmeriNational Community Services. Inc.  
Attn: Jessica Munoz  
8121 E. Florence Ave.  
Downey, CA 90240

Mortgage Service Cente  
Attn: General Counsel/Service of Process  
2001 Bishops Gate Blvd  
Mount Laurel, NJ 08054

Key Bank National Association  
Attn: Mail Stop SV01  
2001 Bishops Gate Blvd  
Mount Laurel, NJ 08054

Key Bank National Association  
Attn: General Counsel/Service of Process  
2001 Bishops Gate Blvd  
Mount Laurel, NJ 08054

Shapiro, Van Ess, Phillips & Barragate,  
4805 Montgomery Road  
Suite 320  
Cincinnati, OH 45212

Ohio Department of Taxation  
Attn: Bankruptcy Division  
P.O. Box 530  
Columbus, OH 43266

Ohio Attorney General  
Collections Enforcement Section  
150 East Gay Street, 21st Floor  
Columbus, OH 43215

Brian M. Gianangeli

The Law Office of Charles Mifsud, LLC  
6305 Emerald Parkway  
Dublin, OH 43016

OHIO STATE ATTORNEY GENERAL  
21ST FLOOR  
30 E. BROAD ST  
17TH FLOOR  
COLUMBUS, OH 43215

Columbus City Attorney  
Attn: John H. Sumner  
77 North Front Street  
Columbus, OH 43215

and by certified mail, return receipt requested, upon:

KeyBank National Association  
attn: General Counsel/Service of Process  
127 Public Square  
Cleveland, OH 44114  
(FDIC address)

/s/Mina N. Khorrami

Mina N. Khorrami (0058350)  
Attorney for Debtor